

880.0000 WELFARE EXEMPTION

See Possessory Interest

Rental Housing Exemption

880.0001 (a) IN GENERAL

880.0002 Actual Operation of Exempt Activity. Revenue and Taxation Code section 214(a)(3) was amended in 1990 to provide that for purposes of determining whether property is used for the actual operation of the exempt activity, consideration shall not be given to the use of property for meetings conducted by any other organization, if the meetings are incidental to the other organization's primary activities, are not fundraising meetings or activities, are not held more than once per week, and the other organization and its use of the property meet the requirements of section 214(a)(1)-(5). The owner of the property or the other organization, however, must file copies of valid, unrevoked letters or rulings from the Internal Revenue Service or Franchise Tax Board stating that the other organization, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code or section 23701d or 23701f of the Revenue and Taxation Code, together with duplicate copies of that organization's most recently filed federal income tax return, if the organization is required by federal law to file a return. C 7/18/95; C 6/30/97.

880.0005 Assessment Appeals Board Jurisdiction. Jurisdiction to make determinations and findings on the eligibility of property for the welfare exemption lies exclusively with the State Board of Equalization and the assessor, who jointly administer the exemption under Revenue and Taxation Code section 254.5. A finding by the Board staff that property is ineligible for the exemption is appealable only to the Board. A finding by an assessor that property is ineligible for the exemption is not appealable to an assessment appeals board. That denial is grounds for the filing of a claim for refund as well as for a suit for refund, but not for a hearing by a local board. C 3/11/94.

880.0016 Bingo. Revenue and Taxation Code section 215.2 permits the conduct of certain bingo games on property that otherwise qualifies on the basis of a charitable or religious use and ownership by a qualifying organization. Bingo can only qualify as a secondary activity, and that activity must conform to the provisions of Penal Code section 326.5. Although there is no duty on the assessor's part to ascertain conformance to the Penal Code, exemption should not be granted in any city or county that has not adopted a local ordinance which authorizes the conduct of bingo games. In nonauthorizing localities, the guidelines of the May 26, 1976, Letter to County Assessors, No. 76/94, are still applicable. LTA 7/14/77 (No. 77/100).

880.0017 Bingo, Definition.

1. The term "bingo," as used in section 19(c) of Article IV of the California Constitution, refers to a particular game of that name commonly played in California when the voters added section 19(c) in 1976 and does not embrace any other game or activity included in the legislative definition of bingo contained in the first sentence of Penal Code section 326.5(n).
2. The 1979 amendment of Penal Code section 326.5(n) including punch-boards in the legislative definition of bingo exceeded the authority of the Legislature to permit charitable bingo granted by the 1976 amendment of the Constitution. OAG 6/26/80 (No. 80-115, Vol. 63, p. 524).

880.0018 Bingo, Definition. A charitable organization may not conduct a bingo game known as "progressive power ball bingo" in which a game winner may receive more than \$250 in prizes. OAG 1/19/99 (No. 98-1202, Vol. 82, p. 132).

880.0030 Church-Related Schools.

1. (a) County assessors may constitutionally require church-related schools to file factual statements on prescribed forms as a condition to allowing such schools a property tax exemption. The exemption forms attached to the request appear to be reasonably necessary for that purpose. The "church exemption" is not applicable to church-related schools. Therefore, the forms attached to the request relating to that exemption are not pertinent herein.

(b) An institution which claims that it is exempt from property taxation has the burden of demonstrating its exempt status.
2. The State of California can constitutionally require church-related schools to file form 199B, "Exempt Organization Annual Information Statement", as a condition to allowing such schools an exemption from the state franchise tax. OAG 11/9/79 (No. 79-508, Vol. 62, p. 690).

880.0042 City-Owned Corporation. A city-owned corporation is nevertheless a separate entity and must meet the organizational and property use requirements of Revenue and Taxation Code section 214 in order for its property to be eligible for exemption. C 10/16/87.

880.0043 City-Owned Corporation. A city-owned convention and visitors bureau corporation organized and operated to promote tourism and conventions in a city is not engaged in a charitable activity. Further, if its property is used for fund-raising purposes, such use is disqualifying. In order for its property to be eligible for exemption, the corporation must itself satisfy all the requirements of Revenue and Taxation Code sections 214 or 231, or the corporation's property must be exempt because of a specific section, for example, Revenue and Taxation Code sections 201.1, 201.2 or 201.3. C 10/19/87.

880.0050 Conditional Deeds. A grant deed to an organization qualified for the welfare exemption which contains a right in the grantor to reenter the land and terminate the donee's interest within 25 years under specified conditions does not constitute a "reversionary provision" referred to in Revenue and Taxation Code section 214.3. A "reversion" as defined in Civil Code section 768 is the residue of an estate left by operation of law that commences in possession on the termination of the estate granted. The right to terminate an estate on the breach of a condition is not an estate of any kind. C 5/31/89.

880.0060 Construction in Progress. As of January 1, 1992, Revenue and Taxation Code section 214.2(b) defines "facilities in the course of construction" to include those where construction has commenced but that are not yet finished and have not been abandoned. Construction is not considered abandoned if delayed due to reasonable causes and circumstances beyond the assessee's control, that occur notwithstanding the exercise of ordinary care and the absence of willful neglect. LTA 4/9/92 (No. 92/30).

880.0061 Construction in Progress. For purposes of the exemption, "in the course of construction" refers to that period of time between the commencement and the completion of the building and includes definite, onsite physical activity connected with the construction or rehabilitation of a new or existing building or improvement. The statutory language in section 214.2(b) allows a property to qualify for the exemption in a situation in which construction has commenced but has then been halted, provided that the claimant submits evidence that reasonable causes or circumstances beyond its control prevented the

continuation of construction. There is no specific provision for a situation in which circumstances beyond the claimant's control cause a delay in commencing the physical onsite activity; therefore, construction must have commenced for the section 214.2(b) provision to take effect. C 8/23/01.

880.0065 Corporations Chartered by Act of Congress. Revenue and Taxation Code section 214.01 was amended to provide that the required irrevocable dedication clause may be contained in the bylaws, articles of association, constitution, or regulations of a corporation chartered by an Act of Congress. This permits corporations chartered by an Act of Congress to comply with the requirements of section 214.01 without amending their articles of incorporation, which would necessitate an Act of Congress. C 2/24/2004.

880.0072 Co-ownership. Real property transferred by will to a welfare organization and a college as joint owners is not eligible for the welfare exemption or the college exemption. Both of these exemptions are exclusive use exemptions; ownership alone is not sufficient. While the welfare exemption does require ownership, it also requires use for exempt purposes and activities and may not be applied in a manner that would result in enlarging the college exemption. C 10/29/86.

880.0080 Dissolution Clause. A dissolution clause whereby property of a welfare-exempt organization will be distributed to the federal or a state or local government does not run afoul of Revenue and Taxation Code section 214(6) in that such proposed distributees are governmental entities, not private persons. C 10/25/82.

880.0081 Distribution to Government Entity Upon Dissolution. A dissolution clause that authorizes distribution of a nonprofit organization's assets to charitable and/or public or charitable and/or public benefit purposes is nonqualifying, as not all public or public benefit purposes are charitable. However, distribution to a specified government entity is acceptable since no private inurement results. C 12/13/2002.

880.0095 Document Disclosure. Claim forms and documents submitted in support of the claims, including articles of incorporation, financial statements, income tax exemption letters, and correspondence between the Board and claimants or their attorneys, are public records subject to disclosure pursuant to the Public Records Act since there is no specific provision of law that provides for their confidentiality. Should the Board or the county assessor make an additional request for information, such information also would be subject to public disclosure. C 3/25/99.

880.0100 Filing Requirements. C 3/21/91. (Deleted 2004)

880.0101 Filing Requirements. A claimant organization which on the lien date had a possessory interest in publicly-owned land, owned a water right, or owned improvements on land owned by another should be allowed to file copies of the documents creating such interests with the county assessor until the next succeeding lien date after the lien date for which exemption is being sought. The filing with the assessor is in lieu of filing with the county recorder as required by Revenue and Taxation Code section 261(a). C 7/24/87.

880.0102 Filing Requirements—Late Filing. Revenue and Taxation Code section 270 does not limit the number of years for which an organization may file late claims for exemption. There is no effective statute of limitation on the filing of such claims other than the four year claim for refund limitation following the payment of the tax, if applicable. C 5/11/98.

880.0110 Indian Lessees. Property which is not located on an Indian reservation, is owned by non-Indians, and is leased to a tribal health organization to provide health care services to Indians is not immune or exempt from property taxation. The local government's interest in

taxation of such property outweighs federal and tribal interests in self-determination. Thus, the local government's jurisdiction to tax property is not preempted by federal and tribal jurisdiction over Indian affairs. A tribal health organization is not a federal instrumentality whose owned property is immune from state and local taxation; and, even if it were a federal instrumentality, property which it leases would not be immune. With regard to the welfare exemption and eligibility therefor, in cases where property is owned by one entity but operated by another entity, both entities must file a claim for and qualify for the welfare exemption. C 4/14/97.

880.0115 Irrevocable Dedication and Dissolution Clauses. A statement of irrevocable dedication to charitable and/or public, or charitable and/or public benefit purposes is nonqualifying for purposes of the welfare exemption. Revenue and Taxation Code section 214.01 requires property to be irrevocably dedicated to only religious, charitable, scientific or hospital purposes. Similarly, a dissolution clause that authorizes distribution of a nonprofit organization's assets to charitable and/or public, or charitable and/or public benefit purposes is too broad, as not all public or public benefit purposes are charitable. C 12/13/2002.

880.0125 Lease. LTA 2/9/79 (No. 79/30); C 2/22/79. (Deleted January 2006)

880.0126 Lease. Statutes of 1979, Chapter 393, expanded Revenue and Taxation Code section 214.6 to include property which is owned by a welfare-exempt organization but leased to a community college, a state college, or a state university (public schools) for educational purposes.

If the property is used by the school exclusively for public school purposes, the school may file for the public school exemption, or the welfare-exempt organization may file the lessors' exemption claim with the affidavit signed by the school. If the property is not used exclusively by the school (i.e., the welfare-exempt organization uses the property in the evening or on weekends), the organization must file a welfare claim, and a copy of the lease agreement should accompany the claim. LTA 1/11/80 (No. 80/2).

880.0127 Lease. Equipment supplied by a for-profit entity to an organization qualified for the exemption may or may not be eligible for exemption, depending upon whether the agreement between the parties is a sale or a lease. The agreement form is not controlling, and the determination of the proper classification of the agreement should be based on the intent of the parties as reflected by the preponderance of the agreement terms. The term of possession, the amount of payments to be made, the tax treatment afforded the equipment on the supplier's books, and all the relevant aspects of the agreement should be considered. C 8/11/87.

880.0128 Lease. Property leased for a term of 35 years or more to an organization qualified for the exemption by a person who is not qualified for the exemption remains ineligible for the exemption. While the execution of a 35 year lease constitutes a basis for reappraisal for assessment purposes, it does not make the lessee an owner of the property, as is required for exemption. C 12/27/84.

880.0140 Library and Museum. Revenue and Taxation Code section 214 now extends the exemption to property owned by a religious or charitable organization and used for museum or library purposes. *Free public* libraries and *free* museums continue to be exempt under Revenue and Taxation Code section 202(b). Where, however, a library is not a public library and/or a library or museum charges admission, the exemption may be applicable if all the requirements of section 214 (i.e., articles of incorporation, irrevocable dedication, tax letter, financial documents, etc.) are met. LTA 11/13/79 (No. 79/199).

880.0144 Limited Equity Cooperative Housing Corporation. Property owned by cooperative housing corporations, including limited equity cooperative housing corporations, that is eligible for the homeowners' exemption under Revenue and Taxation Code section 218 is not property used exclusively for rental housing and related facilities within the meaning of Revenue and Taxation Code section 214(g). Thus, property that is owned and used by a cooperative member as a primary residence is ineligible for the welfare exemption. However, any mobilehome spaces or dwellings held by the cooperative that are rented at prescribed rent levels to qualifying lower income tenants who are not cooperative members may qualify for the exemption, provided that all other requirements for the exemption are met. C 3/26/2004.

880.0145 Limited Liability Company—Single Member. C 3/1/99. (Deleted 2005)

880.0146 Limited Liability Company. C 1/12/2000. (Deleted January 2006)

880.0147 Limited Liability Company. A limited liability company has two basic organizational documents: an operating agreement and the articles of organization (a statutorily-prescribed Secretary of State form). A limited liability company comes into existence when its articles of organization are filed with the Secretary of State. Corporations Code section 17051(c) authorizes the inclusion of optional matters in the articles that directly relate to Property Tax Rule 136 requirements.

To qualify for exemption, claimants that filed the articles of organization prior to the effective date of Rule 136 and the statutory amendments to Revenue and Taxation Code section 214 must amend their articles of organization if the articles do not include the requirements of Rule 136. C 7/12/2005.

880.0150 Lobbying Activity. Organizations claiming the exemption may satisfy the exemption requirements even though they engage in lobbying activities, provided that (1) the lobbying is directly connected with the furtherance of their exempt purposes, and (2) the salaries paid lobbyists are not excessive. C 8/5/82.

880.0155 Low Income Housing. A proposed Payment In Lieu of Tax (PILOT) Agreement between a county and an owner of a low income housing project that qualifies for the welfare exemption is invalid because it is not authorized by the California Constitution or any statute. The PILOT agreement specifies that the payment is a tax and, therefore, constitutes a waiver of the welfare exemption. The agreement would also disqualify the property for the exemption as the owner would not be able to satisfy the certification required by Revenue and Taxation Code section 214(g)(2)(B) because the payment would be made pursuant to the PILOT agreement. Thus, no funds would be used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower-income households. C 9/19/2003.

880.0160 Management Contract. When a corporate owner of a senior housing development hires a separate corporation to manage its facility, the agreement between the two corporations must be examined to determine if the hired corporation is an independent operator or a manager that is, in fact, the agent of the owner. If the manager is the owner's agent, then only the owner need qualify and file for exemption. C 11/12/87.

880.0165 Managing General Partner. C 4/29/99. (Deleted 2004)

880.0166 Managing General Partner. Revenue and Taxation Code section 214(g)(1) provides exemption from property taxes for property used to provide low-income housing and related facilities owned and operated by limited partnerships in which the managing general partner is an eligible nonprofit corporation. To be a managing general partner, the

nonprofit corporation should possess the authority to exercise some substantial management duties over some aspect of the partnership business on a day to day basis. This authority may be shared to some extent with other general partners in the limited partnership. C 2/17/2000.

880.0170 Maximum Tax, Penalty, or Interest of \$250. Application of the \$250 maximum tax, penalty, or interest provisions of Revenue and Taxation Code sections 270(b) and 271(c) when the owner and the operator are separate entities and the owner files timely but the operator files late is as follows:

1. The operator is entitled to relief under section 270 or 271, as applicable, and in no case shall any tax or penalty or interest on the operator's property exceed \$250 in total amount. Usually the operator's property consists solely of its personal property.
2. The owner, who has filed timely but who is not eligible for 100 percent exemption on the portion of the property used by the operator who filed late, is entitled to relief under section 270 or 271, as applicable, and in no case shall any tax or penalty or interest on the owner's property exceed \$250. LTA 2/29/80 (No. 80/31).

880.0173 Multiple Limited Partnerships. Lower income housing owned by a limited partnership and operated by another limited partnership may qualify for the welfare exemption under subdivision (g) of Revenue and Taxation Code section 214, but both limited partnerships must meet all the requirements for exemption. Section 214(g) requires the property to be both owned and operated by a qualifying entity.

A qualifying limited partnership for purposes of section 214(g) must have (1) an eligible nonprofit corporation as the managing general partner; (2) a limited partnership agreement that designates such nonprofit corporation as the managing general partner, and (3) an agreement that provides the nonprofit managing general partner with management authority over the partnership operations and specific management duties. In addition, the nonprofit managing general partner of each limited partnership must file claims for the exemption. C 3/4/2003.

880.0175 Multiple Users. If a qualified organization owns a single story building and uses one-half of it for exempt purposes and activities, that half is eligible for exemption. If the other half is vacant, used by a non-qualified organization, or used by a qualified organization for non-qualified purposes and activities, the building would be, to that extent, ineligible for exemption.

A multi-storied building is likewise eligible for exemption to the extent it is used for exempt purposes and activities by a qualified organization. Associated parking facilities used on a random basis by both qualified and non-qualified organizations are not eligible for exemption. C 4/10/92.

880.0176 Multiple Users. If an outside organization makes use of exempt property on a frequent and regular basis, it is an operator of the property, and is required to file its own exemption claim and to meet all the requirements for exemption in order for the property to remain exempt. An exception is that if the use is a "meeting" no more than once per week and the organization qualifies under Revenue and Taxation Code section 214(a)(3)(D), that use is excluded from consideration. Occasional activities and events by others that do not constitute "operation" of the property should be analyzed for incidental use, or under the fundraising or meeting provisions of section 214. C 9/2/99.

880.0190 Net Earnings. Constitutional provisions and case law amply support the proposition that no part of the net earnings of a qualifying organization may inure to the benefit of any

private shareholder or individual, regardless of the facts that its shareholders also are qualifying organizations and that all its assets could be distributed to its shareholders upon dissolution. C 7/22/83.

880.0200 Owner and Operator. Where property owned by a qualifying organization is also used by other organizations, all of such other organizations must be qualifying organizations, and all of such other organizations which use the property on a regular basis must file claims as operators of the property in order for the property to retain its exempt status. C 2/1/78.

880.0201 Owner and Operator. C 3/9/78. (Deleted 2004)

880.0202 Owner and Operator. As a result of Revenue and Taxation Code section 214(e), for the 1986-87 fiscal year and fiscal years thereafter, property owned by a college and used by a church for religious purposes or used by a hospital for hospital purposes or used by a charitable organization for charitable purposes can qualify for the welfare exemption. But property owned by a qualifying religious, hospital, scientific, or charitable organization and used by a college for educational purposes of collegiate grade continues to be ineligible for the welfare exemption since educational purposes of collegiate grade are not religious, hospital, scientific or charitable purposes. LTA 6/13/86 (No. 86/45).

880.0203 Owner and Operator. C 6/28/76; C 7/27/76; LTA 2/9/79 (No. 79/30). (Deleted January 2006)

880.0204 Owner and Operator. A qualifying organization's purchase of a conservation easement over a property and use of the property for exempt activities will not make the property eligible for the exemption where the seller retains legal title to the property and is not a qualifying organization. C 1/7/82.

880.0205 Owner and Operator. The ownership of a multi-space parking garage by an entity eligible for the welfare exemption and by a for-profit entity disqualifies the entire garage for the exemption even though the qualified entity has by agreement with the co-owner exclusive use of 43 percent of the spaces. The requirements for exemption are ownership and use by a qualified organization or organizations. C 2/2/89.

880.0206 Owner and Operator. Shared ownership of properties by governmental entities and non-governmental entities qualified for the welfare exemption will not prevent application of the welfare exemption to the portions owned by the non-governmental entities, provided the properties are put to exempt uses and all requirements are met.

Property placed in trust for the benefit of a governmental agency or agencies and/or organizations qualified for the welfare exemption is exempt based on the status of the beneficiary. The trustee holds legal title but the beneficiary is the equitable owner of the property for property tax purposes. C 3/11/91.

880.0207 Owner and Operator. A mutual benefit corporation operating government-owned real property is not a qualifying nonprofit corporation for purposes of Revenue and Taxation Code section 214 and hence, its taxable possessory interest in the property is not eligible for exemption. C 2/6/98.

880.0208 Owner and Operator. The exemption has historically been administered on an entity basis, applying to property owned by qualifying community chests, funds, foundations, and nonprofit corporations. Unlike the law relating to change in ownership for purposes of real property (Revenue and Taxation Code sections 60 et seq., and particularly section 64(c)), there is no "ultimate control" provision in the welfare exemption statutes which would allow the exemption to apply to property owned by a corporation having a qualifying majority

stockholder. Rather, qualifying nonprofit corporate ownership and use of property are the determinative factors. In addition, Revenue and Taxation Code section 261 specifically requires that the claimant seeking the exemption be the owner of record of the property on the lien date, and a majority stockholder is neither the owner of corporate property nor the owner of record. C 3/25/99.

880.0225 Parking Lot. If an otherwise eligible parking lot is used both by qualifying and nonqualifying organizations, the property's use is mixed, not exclusive, and the entire property is ineligible for the exemption. On the other hand, if a portion of a parking lot is used exclusively by the qualifying organization, and if the remaining, separate portion is used exclusively or otherwise by a nonqualifying organization, that separate portion of the parking lot used exclusively by the qualifying organization is eligible for the exemption. C 5/28/92.

880.0227 Partnerships. Properties of partnerships are not eligible for the exemption, except as provided in Revenue and Taxation Code section 214(g). C 7/13/89.

880.0230 Property Acquired After Beginning of Fiscal Year. Revenue and Taxation Code section 271(a)(3) provides relief from property tax imposed upon property so acquired by an organization qualified for the exemption, a religious, hospital, or scientific organization or a charitable community chest, fund, foundation, or corporation. A limited partnership owning property on the March 1 lien date and thereafter adding an eligible nonprofit corporation as a general partner is not eligible for relief under that section. C 3/1/94.

880.0231 Property Acquired After Beginning of Fiscal Year. Revenue and Taxation Code section 271(a)(3) applies to secured roll personal properties as well as to secured roll lands and improvements acquired by Welfare organizations and certain other organizations after the beginning of a fiscal year and subject to property taxes for that year, and all are entitled to pro-rata exemption thereunder, assuming that all the requirements for exemption are met. Property taxes for personal properties on the unsecured roll are the obligations of the persons to whom those properties are assessed on the lien date, and Welfare organizations and other organizations that acquire unsecured roll personal properties, whether before or after the beginning of a fiscal year, do not take them subject to any liens and hence, do not become liable for payments of any unpaid property taxes with respect to those properties. Thus, circumstances that give rise to the application of section 271(a)(3) do not exist, and resort thereto is neither contemplated nor necessary in such instances. C 1/17/95.

880.0235 Property in Its Natural State. The fact that an owner of property that is otherwise qualified for the exemption provided for in Revenue and Taxation Code section 214.02 receives payments from the federal government for maintaining the property as open space does not interfere with the eligibility of the property for exemption. C 8/2/95.

880.0245 Public School Use. Property owned by the California School Boards Association, a California nonprofit corporation, and used for the benefit of school board members as school board members may be eligible for the welfare exemption even though it may also qualify for the public schools exemption. C 2/28/90.

880.0255 Public School Use of Claimant's Property. The lease of property by an otherwise qualified claimant to a school district for public school purposes does not abrogate the exemption, provided, that the rental charges are not intentionally profit-making or commercial in nature.

A lessors' exemption claim need not be filed by the claimant; however, a copy of the lease agreement should accompany the welfare claim. LTA 4/4/77 (No. 77/55).

880.0265 **Recorded Deed Restriction.** C 3/3/2000. (Deleted 2004)

[880.0266](#) **Recorded Deed Restriction.** A Preliminary Reservation Letter issued by the California Tax Credit Allocation Committee to owners of low income housing may serve to meet the requirement of an "enforceable and verifiable agreement with a public agency" in Revenue and Taxation Code section 214(g)(2)(A). C 3/21/2001.

[880.0270](#) **Rental Proceeds.** A church's use of nominal rental proceeds received from a qualifying organization that operates a day care center on church premises is not restricted to use for only the day care portion of the property. However, rental charges that amount to more than the cost of maintaining the day care portion could affect the determination as to whether use of the premises for the center is a qualifying charitable use. C 10/12/99.

880.0275 **Residential Quarters.** C 1/7/83. (Deleted 2004)

[880.0276](#) **Sale After Lien Date.** Once qualification for the exemption has been established as of the lien date, the property is exempt for the fiscal year. However, if property that qualified for exemption on the lien date is sold after the lien date and no longer qualifies for the exemption, the property becomes taxable as of the transfer date, unless the new owner and the property qualify for exemption as of the date of acquisition. C 11/3/2004.

880.0280 **Statement of Irrevocable Dedication.** C 3/22/77. (Deleted 2004)

[880.0281](#) **Statement of Irrevocable Dedication.** The purpose behind Revenue and Taxation Code section 214.01 was to substitute a specific statement of irrevocable dedication requirement for the rather subjective test of "construing the articles of incorporation as a whole to imply dedication" of a corporation's property. Thus, the Board and Board staff have from its enactment in 1966 construed "only if a statement of irrevocable dedication to only these purposes is found in the articles of incorporation of the corporation" as set forth in section 214.01 literally, with one exception. Absent such a statement, all the requirements for exemption are not met, and no exemption will be granted. C 1/22/97.

[880.0290](#) **Unrelated Business Taxable Income.** Property that is otherwise eligible for the exemption is ineligible to the extent it is used to generate income subject to federal or state income taxes. However, the fact that property does not generate taxable income does not make it exempt from property taxes. Exemption is applicable only if all of the requirements of Revenue and Taxation Code section 214 are met. C 8/30/91.

[880.0291](#) **Unrelated Business Taxable Income.** If an organization whose property is otherwise eligible for exemption receives taxable unrelated business income, i.e., income after expenses, from the use of a portion of that property, it will receive only a partial exemption for the portion so used.

Once unrelated business taxable income is produced, the exemption for the portion so used will be granted in the same proportion as gross exempt income from that portion of the property bears to total gross income attributable to that portion of the property. C 6/20/89.

[880.0300](#) **Use.** Sections 4(b) and 5 of article XIII of the California Constitution and Revenue and Taxation Code sections 214, 214.1 and 214.2 require that property be used in the actual operation of an exempt activity or be in the course of construction where the intended use will qualify the property for exemption. Vacant, unused property awaiting commencement of construction scheduled to start subsequent to the lien date is not eligible for the exemption. C 9/30/87.

[880.0301](#) **Use.** Property being constructed for future exempt charitable, religious or hospital uses is, pursuant to Revenue and Taxation Code sections 214.1, considered to be so used during construction. To qualify, the construction must be ongoing, without delay and

followed by actual use for qualifying purposes. Delay in construction, including delay due to lack of funds, is disqualifying. C 7/3/91; C 8/2/95.

880.0350 (b) WELFARE EXEMPTION – CHARITABLE PURPOSES

880.0360 **Charitable.** C 2/25/92. (Deleted 2004)

[880.0361](#) **Charitable.** Under Revenue and Taxation Code section 214(a), the exemption is available for property used exclusively for charitable purposes, owned and operated by foundations organized and operated for such purposes if all the requirements for exemption are satisfied. The primary test of the charitable purposes aspect is whether the activity provides a general community benefit whose "ultimate recipients are either the community as a whole or an unascertainable and indefinite portion thereof." (*Stockton Civic Theatre v. Board of Supervisors*, 66 Cal.2d 13.) This means that the class benefited must be sufficiently large that a gift to it may be considered to benefit an indefinite portion of the community.

A foundation's purpose may be to provide grants to qualified, nonprofit, tax-exempt organizations which provide a broad range of cultural, educational, health, and human services. The grants fund community activities including, but not limited to, homeless programs, scholarships for financially disadvantaged students, and cultural activities, as well as construction and/or renovation of community facilities such as hospitals, schools, day-care centers, theatres, and art museums. Such a foundation's purpose of philanthropy is a charitable purpose within the meaning of section 214(a). C 10/18/2001.

880.0363 **Charitable.** C 5/25/78. (Deleted 2004)

[880.0370](#) **Charitable.** In view of Revenue and Taxation Code section 214.10, activities such as persuading a county health department to institute a plan of rodent eradication and a plan of building inspection to board up vacant houses, improving garbage collection efforts in vacant lots, and obtaining improved lighting in high-crime areas qualify as charitable for purposes of the exemption. C 6/15/88.

880.0375 **Charitable.** C 12/7/87. (Deleted 2004)

[880.0390](#) **Fundraising.** A property that is used primarily for fundraising is not a qualifying use of property for purposes of the welfare exemption, even if the proceeds are used for charitable donations or purposes. C 12/27/2002.

[880.0400](#) **Housing.** Property used exclusively for housing and related facilities for elderly and/or handicapped families and financed by the federal government pursuant to section 8 of the Housing and Community Development Act of 1974 (section 201 of Public Law 93-383/42 U.S.C. 1437(f)) may be eligible for the exemption. C 6/11/81.

880.0401 **Housing.** LTA 3/5/85 (No. 85/28); LTA 10/10/85 (No. 85/108). (Deleted 2004)

[880.0402](#) **Housing.** Assuming the owner/operator of a housing facility for elderly or handicapped families satisfies the organizational requirements, its property may qualify for the exemption even if it is not financed by a federal grant or loan and it is not devoted to accommodating only low- or moderate- income tenants, provided the owner/operator furnishes services designed to meet the special needs of its tenants.

Among recognized services are:

1. The preparation or instruction in preparation of meals.
2. Assistance in shopping for food, clothing and household furnishings on an "as needed" basis.
3. Social programs, and assistance such as temporary housekeeping for the sick.

4. Emergency transportation (other than ambulance service), and referral assistance when professional services are needed. C 12/30/87.

880.0403 Housing. A public benefit corporation that is organized for the specific purpose to preserve affordable housing, including the development and preservation of affordable mobilehome park/manufactured housing community living, is eligible for exemption within the charitable purposes aspect of Revenue and Taxation Code section 214(a). The corporation's function of assisting mobilehome park residents to purchase their park does not cause disqualification of the organization from the exemption. C 5/12/2005.

880.0405 Housing. LTA 7/7/88 (No. 88/51). (Deleted 2004)

880.0406 Housing. To obtain the exemption provided for in Revenue and Taxation Code section 214(g), the claimant must satisfy the requirements of that subdivision and the other applicable organization and operational requirements of section 214. The exemption applies only to rental housing, and the tenants may not be members of the organization that owns the property. C 1/6/88.

880.0407 Housing. Neither Revenue and Taxation Code section 214 nor subdivision (g) thereof consider limited partnerships to be organizations qualified for the exemption. Section 214(g) merely recognizes certain properties as properties being within the exemption. C 3/1/94.

880.0408 Housing. Lower income housing owned by a limited partnership and operated by another limited partnership may qualify for the welfare exemption under subdivision (g) of Revenue and Taxation Code section 214, but both limited partnerships must meet all the requirements for exemption. Section 214(g) requires the property to be both owned and operated by a qualifying entity.

A qualifying limited partnership for purposes of section 214(g) must have (1) an eligible nonprofit corporation as the managing general partner; (2) a limited partnership agreement that designates such nonprofit corporation as the managing general partner, and (3) an agreement that provides the nonprofit managing general partner with management authority over the partnership operations and specific management duties. In addition, the nonprofit managing general partner of each limited partnership must file claims for the exemption. C 3/4/2003.

880.0410 Housing. For 1988 and thereafter, property used exclusively for an emergency or temporary shelter and related facilities for homeless persons and families will be eligible for the exemption if the requirements of Revenue and Taxation Code section 214, including section 214(h), are met. Section 214(h) pertains only to emergency or temporary shelters and related facilities for persons and families which are eligible for funding pursuant to Health and Safety Code sections 50800 et seq. Rescue missions, halfway houses, shelters for abused women and/or children, etc., may be eligible for exemption under existing provisions of section 214. LTA 7/13/88 (No. 88/54).

880.0415 Housing. C 1/17/84. (Deleted 2004)

880.0420 Housing. Housing provided by a limited equity cooperative housing corporation to its members is owned by the individual corporate members who are eligible to claim and receive homeowners' exemptions. Such property is not eligible for the welfare exemption as rental housing under Revenue and Taxation Code section 214(g). C 3/7/90.

880.0421 Housing. When a housing complex contains units eligible for the welfare exemption and other units eligible for the homeowners' exemption, property tax imposed on the units receiving the latter partial exemption may not be apportioned among all the units. It is

contrary to case law and against public policy to deny exemption to exempt property by shifting taxes from taxable property to it. C 7/27/87.

[880.0425](#) **Housing.** For 1985 and thereafter, property used exclusively for housing and related facilities for elderly or handicapped families and financed by the federal government is eligible for exemption without regard to which Public Law section authorizes the financing, provided the charitable requirements of Revenue and Taxation Code section 214 are satisfied. C 12/11/90.

880.0426 **Housing.** C 8/2/95. (Deleted 2004)

[880.0429](#) **Housing.** Property Tax Rule 137 establishes a single uniform statewide standard for determining the exemption qualification of housing properties of nonprofit organizations. Rule 137 is consistent with both long-standing judicial precedent and Revenue and Taxation Code section 214(i). While Rule 137 is consistent with existing law, it is a departure from the Board's past practice and application of the law to property used for housing. Prior to the rule's adoption, the Board's and the assessors' application of a strict standard, rather than a strict but reasonable standard in their interpretation of existing law, had resulted in the exemption of few housing properties. Additionally, Rule 137 did not constitute a change in, but rather is declaratory of existing law; it is to be given retroactive effect. C 3/28/2003.

880.0430 **Housing.** C 3/13/87. (Deleted 2004)

880.0431 **Housing—Vacancies on Lien Date.** C 11/13/92. (Deleted 2004)

[880.0432](#) **Housing.** Properties of nonprofit organizations which purchase single family residences from the Veterans Administration to shelter primarily homeless veterans do not qualify for the exemption unless there is an enforceable and verifiable agreement with a public agency or a recorded deed restriction that restricts the property's usage to rental to low income households, and that provides that designated units are continuously available to or occupied by lower income households at the rent levels prescribed in accordance with (Revenue and Taxation Code section 214(g)(2)(A)). C 3/2/2000.

Note: Chapter 601 of the Statutes of 2000 amended section 214(g) to require a minimum of 90 percent of the occupants be lower income households in order for the property to qualify for exemption.

880.0440 **Low-Cost Housing.** C 6/7/84. (Deleted 2004)

[880.0445](#) **Low-Cost Student Housing.** A possessory interest held by a qualified claimant in property owned by a governmental entity is eligible for the exemption. C 9/29/77.

Note: Chapter 678 of the Statutes of 1994 (in effect January 1, 1985) amended section 261(c) to allow filing with the assessor in lieu of recordation.

880.0460 **Museum.** C 1/7/83. (Deleted 2004)

[880.0480](#) **Orphanages.** An orphanage is eligible for the exemption if it meets the requirements therefor. C 12/7/79.

880.0485 **Paid for Services.** C 7/17/78. (Deleted 2004)

880.0486 **Paid for Services.** C 5/25/78. (Deleted 2004)

880.0487 **Paid for Services.** C 5/23/78. (Deleted 2004)

[880.0500](#) **Project Headstart Program.** A church which uses part of its building for housing a Project Headstart program may qualify that part of the building for the exemption as long as the requirements therefor are met. OAG 3/6/74 (No. CV 74-16, Vol. 57, p. 119).

880.0505 Property Leased to Government. Upon completion of construction, streets, sidewalks, curbs, gutters, water systems, and waste water facilities may be eligible for the exemption provided by Revenue and Taxation Code section 231 if leased to a governmental agency by a nonprofit corporation satisfying the organizational requirements of the section. During construction, these improvements would not be exempt since section 231 relates only to buildings in the course of construction. Land or land and improvements leased to a governmental agency which are vacant or unused are ineligible for exemption. When improvements are exempt, then the land reasonably necessary to their use is also exempt. C 8/19/86.

880.0515 Public School Buildings Under Construction. Public school buildings under construction on the lien date are eligible for the exemption under Revenue and Taxation Code section 231, if the qualifying owner meets all the provisions of Revenue and Taxation Code section 214. C 1/26/78.

880.0525 Schools of Less Than Collegiate Grade. A nonprofit organization working directly with students in grades kindergarten to 12 in addition to working with teachers and other adults is a qualifying organization, assuming all requirements for exemption are met. C 3/3/78.

880.0528 Schools of Less Than Collegiate Grade. C 11/5/85. (Deleted 2004)

880.0540 Thrift Store. C 3/1/79; C 5/1/80. (Deleted 2004)

880.0541 Thrift Store. C 11/14/79. (Deleted 2004)

880.0560 Trade School. A trade school owned and operated by a local trade union for its members and/or potential members does not use its property exclusively for charitable purposes and activities. Further, the school does not qualify for the public schools exemption. It is a private institution, not a public school or public school district. C 12/8/87.

880.0570 Unrelated Income. Pursuant to Revenue and Taxation Code section 214.05, if an organization *whose property is otherwise eligible for exemption* receives taxable unrelated business income, i.e., income after expenses, from the use of a portion of that property, it will receive only a partial exemption for the property. Once it is determined that unrelated business taxable income is produced, exemption is limited to the proportion of the value of the property producing the unrelated business taxable income that the total gross income exempt from taxation produced by that portion of the property bears to the total gross income attributable to that portion of the property. C 6/20/89.

880.0580 Use of Property. Property owned and used by an owner or members for fraternal or lodge purposes is not used for exempt purposes and does not qualify for the exemption. C 9/18/78; C 10/16/78.

880.0581 Use of Property. The use by a qualifying organization of its generator to produce power for its own use is incidental and reasonably necessary for the accomplishment of its exempt purposes, and the sale of power to a public utility at times when the generator creates excess power for later repurchase at times the generator's production is insufficient does not result in loss of exemption. C 4/3/84.

880.0582 Use of Property. The use of property by a membership organization may qualify for the exemption if the organization drafts its articles of incorporation and organizational documents to demonstrate that its primary purpose is charitable and that its activities will benefit the community at large rather than only its own membership, and if the organizational applies for and receives charitable status with the Internal Revenue Service under Internal Revenue Code section 501(c)(3) and/or with the Franchise Tax Board under

Revenue and Taxation Code section 23701d. However, if the membership organization's primary purpose is to raise funds and its meetings could be characterized as "fundraising meetings," an organization receiving the exemption for its property could jeopardize its exemption by permitting such meetings to take place on its property. C 10/2/2000.

880.0600 (c) WELFARE EXEMPTION—HOSPITAL PURPOSES

880.0625 Gift Shops. A gift shop operated by the owner hospital or by a hospital auxiliary on a nonprofit basis with net revenues, if any, expended for the direct benefit of the hospital may qualify for exemption. Both the owner hospital and operator, e.g., an auxiliary that is a separate organization, must meet the requirements for exemption. C 2/29/88.

880.0630 Laboratory. If a hospital operates a medical laboratory as a "reference laboratory" that accepts referrals from private physicians to assist patients not otherwise being served by the hospital, the laboratory will be ineligible for the exemption, even though any gain from fees may be used for general hospital purposes. C 3/19/97.

880.0640 Leased Property. While hospital property may be used by licensed physicians for the practice of their profession without losing exemption, the lease of a portion of a hospital property to a for-profit corporation owned, in part, by some of the hospital's physicians disqualifies that leased portion of the property. C 10/19/87.

880.0641 Leased Property. While specific statutory and regulatory provisions may allow a single member limited liability company (LLC) to disregard its separate existence for purposes of income tax filing, there is no authority for disregarding an LLC's separate entity status for purposes of ownership, operation, or use of property in determining eligibility for the welfare exemption under Revenue and Taxation Code section 214.

Accordingly, machinery and equipment purchased and owned by an LLC whose single member is a qualifying medical center and leased to the medical center will not be eligible for the exemption. However, machinery and equipment purchased and owned by a qualifying entity and leased to the medical center for use consistent with the "needs of hospital" provision of section 214.11 could be eligible for the exemption. C 3/1/99.

880.0645 Leased Property. A nonprofit hospital corporation that has qualified for the exemption is not subject to general property taxes measured by the value of hospital equipment "leased" to it by a national banking corporation. OAG 11/3/78 (No. CV 78-58, Vol. 61, p. 472).

880.0660 Needs of Hospitals. Under Revenue and Taxation Code section 214.11, as amended in 1983, while nonprofit (nongovernmental) hospitals must file and qualify for the exemption before the service organization can receive the exemption, filings by hospital districts or by state or federal hospitals are not required since they are nontaxable governmental entities. Service organizations claiming the exemption must include with their claims a list of all organizations they provide services to. Because property must be "used exclusively" for exempt purposes, the servicing of an organization that does not file and qualify as a hospital for the exemption, with the exceptions stated above, is sufficient cause to deny the exemption for the entire property of the service organization. LTA 3/16/84 (No. 84/35).

880.0670 Owner/Operator. Generally, all departments in a hospital are eligible for exemption if the hospital and property satisfy all exemption requirements. However, when a hospital contracts with an outside entity to run a department, that operator, whether denominated a lessee, operator, or otherwise, must also meet the requirements for exemption. The fact that the "use" agreement is advantageous to all parties is not determinative. C 2/10/88.

880.0690 Surplus Revenue. A non-profit hospital which earns surplus revenue in excess of ten percent during the preceding fiscal year may still qualify for the exemption. OAG 3/30/88 (No. 87-502, Vol. 71, p. 106).

Note: Also, see *Rideout Hospital Foundation, Inc. v. Yuba County* (1992) 8 Cal.App.4th 214 as to whether a hospital may earn surplus revenue in excess of 10 percent during the immediate fiscal year and still qualify for exemption.

880.0700 (d) **WELFARE EXEMPTION—RELIGIOUS PURPOSES**

[880.0710](#) **Bookstores.** Bookstore properties of organizations selling religious materials in furtherance of their religious purposes and activities are eligible for exemption, but bookstore properties of organizations selling religious materials to produce revenues are not. C 12/17/79.

880.0760 **Preschool's Use of Church Property.** C 5/17/78. (Deleted 2004)

880.0770 **Recreation and Camping Facilities.** C 5/2/78. (Deleted 2004)

[880.0780](#) **Religious Activity-Ticket Distribution.** A qualifying religious activity, e.g., a church Christmas program, is not impacted for purposes of eligibility for the exemption because tickets are distributed, whether sold or gifted, even if a for-profit organization handles the distribution. The cost of the distribution is in the same category as the cost of programs or advertising and is an acceptable expense so long as no one benefits from providing the distribution service through the payment of excessive charges or compensation or through the more advantageous pursuit of its business. C 9/8/88.

880.0785 **Residential Quarters.** C 5/6/80.

[880.0790](#) **Television Broadcasts.** The licensing of recordings of religious performances to outside, for-profit companies for showing on pay-per-view television broadcasts does not impact the availability of the exemption for the property upon which the productions and recordings took place, provided the licensing is not a fundraising endeavor and the licensee's compensation is not excessive and that the property is not used to benefit the licensee through the more advantageous pursuit of its business. C 6/15/94.